

Fishery Conservation and Management

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percent; and Trimester III (September–December)—40.0 percent.

(2) Any underages of commercial period quota for Trimester I that are greater than 25 percent of the Trimester I quota will be reallocated to Trimesters II and III of the same year. The reallocation of quota from Trimester I to Trimester II is limited, such that the Trimester II quota may only be increased by 50 percent; the remaining portion of the underage will be reallocated to Trimester III. Any underages of commercial period quota for Trimester I that are less than 25 percent of the Trimester I quota will be applied to Trimester III of the same year. Any overages of commercial quota for Trimesters I and II will be subtracted from Trimester III of the same year.

(g) *Research set-aside (RSA) quota.* Prior to the MAFMC's quota-setting meetings:

(1) NMFS will publish a Request for Proposals (RFP) in the FEDERAL REGISTER, consistent with procedures and requirements established by the NOAA Grants Office, to solicit proposals from industry for the upcoming fishing year, based on research priorities identified by the MAFMC.

(2) NMFS will convene a review panel, including the MAFMC's Comprehensive Management Committee and technical experts, to review proposals submitted in response to the RFP.

(i) Each panel member will recommend which research proposals should be authorized to utilize research quota, based on the selection criteria described in the RFP.

(ii) The NEFSC Director and the NOAA Grants Office will consider each panel member's recommendation, and provide final approval of the projects. The Regional Administrator may, when appropriate, exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent.

(3) The grant awards approved under the RFPs will be for the upcoming fishing year. Proposals to fund research that would start prior to, or that would end after the fishing year, will not be eligible for consideration. All research and/or compensation trips must be completed within the fishing year for which the research grant was awarded.

(4) Research projects will be conducted in accordance with provisions approved and provided in an Exempted Fishing Permit (EFP) issued by the Regional Administrator.

(5) If a proposal is disapproved by the NEFSC Director or the NOAA Grants Office, or if the Regional Administrator determines that the allocated research quota cannot be utilized by a project, the Regional Administrator shall reallocate the unallocated or unused amount of research quota to the respective commercial and recreational fisheries by publication of a notice in the FEDERAL REGISTER in compliance with the Administrative Procedure Act, provided:

(i) The reallocation of the unallocated or unused amount of research quota is in accord with National Standard 1, and can be available for harvest before the end of the fishing year for which the research quota is specified; and

(ii) Any reallocation of unallocated or unused research quota shall be consistent with the proportional division of quota between the commercial and recreational fisheries in the relevant FMP and allocated to the remaining quota periods for the fishing year proportionally.

(6) Vessels participating in approved research projects may be exempted from certain management measures by the Regional Administrator, provided that one of the following analyses of the impacts associated with the exemptions is provided:

(i) The analysis of the impacts of the requested exemptions is included as part of the annual quota specification packages submitted by the MAFMC; or

(ii) For proposals that require exemptions that extend beyond the scope of the analysis provided by the MAFMC, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered, as specified in the EFP regulations at § 648.12(b).

§ 648.23 Gear restrictions.

(a) *Mesh restrictions and exemptions.*

(1) Vessels subject to the mesh restrictions outlined in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that required.

(2) Owners or operators of otter trawl vessels possessing 1,000 lb (0.45 mt) or more of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(3) Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2½ inches (54 mm), during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1¾ inches (48 mm), during Trimester II (May–Aug), diamond mesh, inside stretch measure, applied throughout

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the codend for at least 150 continuous meshes forward of the terminus of the net, or for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless they are fishing consistent with exceptions specified in paragraph (b) of this section.

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 2½ inches (54 mm), during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm), during Trimester II (May–Aug), diamond mesh, inside stretch measure. “Top of the regulated portion of the net” means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(ii) *Illex fishery.* Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ and fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request) are exempt from the *Loligo* gear requirements specified at paragraph (a)(3) of this section, provided they do not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1⅞ inches (48 mm) diamond mesh or any net, or any piece of net, with mesh

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that is rigged in a manner that is prohibited by paragraph (a)(3) of this section, when the vessel is landward of the specified coordinates.

Point	N. Lat.	W. Long.
M1	43°58.0'	67°22.0'
M2	43°50.0'	68°35.0'
M3	43°30.0'	69°40.0'
M4	43°20.0'	70°00.0'
M5	42°45.0'	70°10.0'
M6	42°13.0'	69°55.0'
M7	41°00.0'	69°00.0'
M8	41°45.0'	68°15.0'
M9	42°10.0'	67°10.0'
M10	41°18.6'	66°24.8'
M11	40°55.5'	66°38.0'
M12	40°45.5'	68°00.0'
M13	40°37.0'	68°00.0'
M14	40°30.0'	69°00.0'
M15	40°22.7'	69°00.0'
M16	40°18.7'	69°40.0'
M17	40°21.0'	71°03.0'
M18	39°41.0'	72°32.0'
M19	38°47.0'	73°11.0'
M20	38°04.0'	74°06.0'
M21	37°08.0'	74°46.0'
M22	36°00.0'	74°52.0'
M23	35°45.0'	74°53.0'
M24	35°28.0'	74°52.0'

(4) *Mackerel, squid, and butterfish bottom trawling restricted areas.* (i) *Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. Lat.	W. Long.
OC1	40°10.0'	68°12.0'
OC2	40°24.0'	68°09.0'
OC3	40°24.0'	68°08.0'
OC4	40°10.0'	67°59.0'
OC1	40°10.0'	68°12.0'

(ii) *Lydonia Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Lydonia Canyon is defined by

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straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON		
Point	N. Lat.	W. Long.
LC1	40°16.0'	67°34.0'
LC2	40°16.0'	67°42.0'
LC3	40°20.0'	67°43.0'
LC4	40°27.0'	67°40.0'
LC5	40°27.0'	67°38.0'
LC1	40°16.0'	67°34.0'

(b) Definition of “not available for immediate use.” Gear that is shown not to have been in recent use and that is stowed in conformance with one of the following methods is considered to be not available for immediate use:

(1) *Nets.* (i) *Below deck stowage.* (A) It is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage.* (A) It is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage.* (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the net; and

(C) The codend is removed and stored below deck.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas, the Georges Bank Seasonal Area Closure, and the Conditional Gulf of Maine Rolling Closure Area.* (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the doors; and

(C) No containment rope, codend tripping device, or other mechanism to

close off the codend is attached to the codend.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured and the dredge or the winch is covered so that it is rendered unuseable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic).* All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the FEDERAL REGISTER.

(c) *Mesh obstruction or constriction.* The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengtheners). In addition, the inside webbing shall not be

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more than 2 ft (61 cm) longer than the outside webbing.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14648, Mar. 27, 1997; 63 FR 1774, Jan. 12, 1998; 64 FR 24073, May 5, 1999; 65 FR 16345, Mar. 28, 2000; 65 FR 37911, June 19, 2000; 68 FR 9586, Feb. 28, 2003; 69 FR 22951, Apr. 27, 2004; 71 FR 63270, Oct. 30, 2006; 73 FR 18449, Apr. 4, 2008; 73 FR 37388, July 1, 2008; 75 FR 5540, Feb. 3, 2010; 75 FR 11450, Mar. 11, 2010; 75 FR 28762, May 24, 2010]

EFFECTIVE DATE NOTE: At 76 FR 60618, Sept. 29, 2011, § 648.23 was revised, effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* (1) Vessels subject to the mesh restrictions in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that required.

(2) Owners or operators of otter trawl vessels possessing 1,000 lb (0.45 mt) or more of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or, for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(3) Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2½ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1½ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless they are fishing consistent with exceptions specified in paragraph (b) of this section.

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 2½ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1½ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure. “Top of the regulated portion of the net” means the 50 percent of the entire regulated portion of the net that

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would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this paragraph (a)(3)(i), head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(ii) *Illex fishery.* Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ and fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request) are exempt from the *Loligo* gear requirements in paragraph (a)(3) of this section, provided they do not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1½ inches (48 mm) diamond mesh or any net, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraph (a)(3) of this section, when the vessel is landward of the specified coordinates.

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M21	37°08.0'	74°46.0'
M22	36°00.0'	74°52.0'
M23	35°45.0'	74°53.0'
M24	35°28.0'	74°52.0'

(4) *Mackerel, squid, and butterfish bottom trawling restricted areas.* (i) *Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Oceanographer Canyon is defined by

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straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

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OC3	40°24.0'	68°08.0'
OC4	40°10.0'	67°59.0'
OC1	40°10.0'	68°12.0'

(ii) *Lydonia Canyon*. No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON

Point	N. lat.	W. long.
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LC4	40°27.0'	67°40.0'
LC5	40°27.0'	67°38.0'
LC1	40°16.0'	67°34.0'

(b) *Definition of "not available for immediate use."* Gear that is shown not to have been in recent use and that is stowed in conformance with one of the following methods is considered to be not available for immediate use:

(1) *Nets*—(i) *Below-deck stowage*. (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage*. (A) The net is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage*. (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the net; and

(C) The codend is removed and stored below deck.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas, the*

Georges Bank Seasonal Area Closure, and the Conditional Gulf of Maine Rolling Closure Area.

(A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the doors; and

(C) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend.

(2) *Scallop dredges*. (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic)*. All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear*. All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage*. Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the FEDERAL REGISTER.

(c) *Mesh obstruction or constriction*. The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration, or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengtheners). In addition, the inside webbing shall not be more than 2 ft (61 cm) longer than the outside webbing.

§ 648.24 Framework adjustments to management measures.

(a) *Within season management action*. The Council, at any time, may initiate action to add or adjust management measures within the Atlantic Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet